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TO : USPTO
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FROM : Michael J. Marcin, Esq. of Fay Kaplun & Marcin, LLP

DATE : January 16, 2007

SUBJECT : U.S. Patent Appln. Serial No. 09/621,400
for *Method and Apparatus for Management of an Automated License*
Our Ref.: 40101/10101

NUMBER OF PAGES INCLUDING COVER : 16

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Attorney Docket No.: [40101/10101]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s) : Dere et al.
Serial No. : 09/621,400
Filing Date : July 21, 2000
For : Method and Apparatus for Management of an Automated License
Group Art Unit: : 2161
Examiner : T. Y. Chen

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By: 
Michael J. Marcin Reg. No. 48,198

Date: January 16, 2007

TRANSMITTAL

Transmitted herewith please find a Reply Brief in response to the Examiner's Answer mailed on November 15, 2006 for filing in the above-identified application. No fees are believed to be required. The Commissioner is hereby authorized to charge any additional required fees to the **Deposit Account of Fay Kaplun & Marcin, LLP No. 50-1492**. A copy of this paper is enclosed for that purpose.

Respectfully submitted,

Dated: January 16, 2007

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Attorney Docket No.: [40101/10101]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

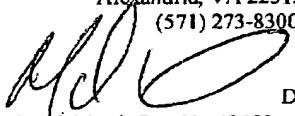
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Attorney Docket No.: 40101 - 10101

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:

Dere et al.

Serial No.: 09/621,400

Filed: July 21, 2000

For: METHOD AND APPARATUS
FOR MANAGEMENT OF AN
AUTOMATED LICENSE

Group Art Unit: 2161

Examiner: T. Y. Chen

**Board of Patent Appeals and
Interferences**Mail Stop: Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**REPLY BRIEF UNDER 37 C.F.R. § 41.41**

In response to the Examiner's Answer mailed on November 15, 2006 to the Appeal Brief filed August 28, 2006, and pursuant to 37 C.F.R. § 41.41, Appellants present this reply brief in the above-captioned application.

This is an appeal to the Board of Patent Appeals and Interferences from the Examiner's rejection of claims 1-4, 6, 7, 9-13, 17, 22, 24, 25 and 39-41 in the final Office Action dated March 28, 2006 as clarified in the Advisory Action mailed July 20, 2006 and further clarified in the Examiner's Answer mailed November 15, 2006. The appealed claims are set forth in the attached Claims Appendix.

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1. Grounds of Rejection to be Reviewed on Appeal

- I. Whether claims 1-4, 6, 7, 11-13 and 39-41 are unpatentable under 35 U.S.C. § 102(e) as anticipated by U.S. Patent Application Pub. No. 2005/0273436 to Coley et al ("Coley").
- II. Whether claims 9-10, 17, 22, 24 and 25 are unpatentable under 35 U.S.C. § 103(a) as obvious over Coley in view of U.S. Patent No. 6,006,035 to Nabahi.

2. Argument

- I. The Rejection of Claims 1-4, 6, 7, 11-13 and 39-41 Under 35 U.S.C. § 102(e) as Anticipated by U.S. Patent Application Pub. No. 2005/0273436 to Coley et al, Should Be Reversed.

In the Examiner's Answer, the Examiner maintained that Coley discloses "receiving a selection of a configuration of the retrieved license information" and "confirming the configuration of the retrieved license information on the client computing system," as recited in claim 1. (See Examiner's Answer, pp. 7-13).

The Examiner has cited Coley as disclosing the installation of software and, in particular, user selectable software features. Based on this disclosure, the Examiner concludes that Coley teaches the installation and configuration of licenses. (See Examiner's Answer, pp. 8-10). Coley describes user selection of software features, which must be paid for before a license can be generated. (See Coley, ¶ [0102]). However, nowhere does Coley describe or suggest how

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the license is configured or installed. As described in the specification of the present application, license information corresponding to a client system is retrieved from a database. The license information consists of a host ID, customer license number, other relevant data and a request code to the license database. (See Specification, p. 9, lines 26-35). A setup program provides a configuration entry form displaying a summary of the available licenses, a number of licenses currently residing on the host equipment, and an edit box for license requests. The license configuration requested by the user is displayed and confirmed by the user. Thus, the present invention teaches "receiving a selection of a configuration of the retrieved license information" and "confirming the configuration of the retrieved license information on the client computing system," as recited in claim 1. After confirmation, the license database is updated to obtain a license file, which is installed on the client system. (Id. at p. 10, lines 1-16).

In contrast, Coley is directed towards the management of existing licenses, including enabling and re-enabling licenses. (See Coley, ¶¶ [0014] - [0016]). Before a license is issued, a user selects from available software features, which affect the cost of a license. Once payment is made, the software is automatically enabled and a license database is updated with a license record. (Id. at ¶¶ [0057] - [0058]). Nowhere does Coley state or imply that the license can be configured. The Examiner notes that Coley's system is configurable so as to disable a client application if an acknowledgment of a valid license record is not received. (See Examiner's Answer, p. 8). While an individual client application may be configured by programming the application with instructions not to operate unless a valid license is detected,

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this neither directly discloses nor suggests that a license itself can be configured.

In addition, the selecting of software features only affects the type of license issued and is not equivalent to configuring a license. An issued license will only enable those features to which the license corresponds. This feature enablement is irrespective of how the license is itself configured, since feature enablement is inherent to the type of license selected by the user. Thus, it is respectfully submitted that Coley neither discloses nor suggests "receiving a selection of a configuration of the retrieved license information," as recited in claim 1.

It is also respectfully submitted that Coley does not teach confirmation of a license configuration. The Examiner cites passages from Coley which describe the validation of a license by determining whether a license ID field is null. (See Examiner's Answer, pp. 10-13). Coley states that a client module investigates a response message, which is returned from a license server in response to a license validity inquiry request from the client module. If the license ID field is null, the software application is disabled. (See Coley, ¶¶ [0052] - [0053]). Thus, Coley teaches confirming the existence of a license, but does not teach or suggest confirming a license configuration. Coley discloses that the response message includes the license ID field, which is a pointer to the location of a license record in the database. (Id. at ¶ [0052]). The license ID field does not indicate anything about the license other than whether or not it exists. Therefore, Coley's system does not inquire into the configuration of the license. Confirming whether a license exists is not analogous to confirming a configuration of the license. Thus, it is respectfully submitted that Coley neither discloses nor suggests "confirming the

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configuration of the retrieved license information on the client computing system,” as recited in claim 1.

Based on the reasons discussed above, Appellants respectfully request that the Board overturn the Examiner’s rejection under 35 U.S.C. 102(e) of independent claim 1 and all the claims depending directly or indirectly therefrom (claims 2-4, 6, 7, 11-13 and 39-41).

II. The Rejection of Claims 9-10, 17, 22, 24 and 25 Under 35 U.S.C. § 103(a) as Obvious over U.S. Patent Application Pub. No. 2005/0273436 to Coley et al. in View of U.S. Patent No. 6,006,035 to Nabahi Should Be Reversed.

As discussed above with reference to the 35 U.S.C. § 102(e) rejections, Coley fails to anticipate claim 1. Furthermore, as discussed in the Appeal Brief filed August 28, 2006, Nabahi fails to cure the deficiencies of Coley. Thus, Appellants respectfully submit that neither Coley nor Nabahi, either alone or in combination, disclose or suggest “receiving a selection of a configuration of the retrieved license information” and “confirming the configuration of the retrieved license information on the client computing system,” as recited in claim 1.

Accordingly, Appellants respectfully request that the Board overturn the Examiner’s rejection under 35 U.S.C. 103(a) of claims 9 and 10, which depend from and include the limitations of claim 1.

The Examiner also argues that Coley discloses sending HTTP post requests and a tunneling agent receiving the post requests. (See Examiner’s Answer, pp. 13-15). Coley discloses that a licensing module can be operated as a proxy agent on a firewall. (See Coley, ¶

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[0114]). Coley also discloses a Web server connection. (Id. at ¶ [0102]). However, Coley only describes the use of TCP and other communications protocols. (Id. at ¶¶ [0109] - [0110]). As known to those skilled in the art, TCP/IP is a basic communications protocol which comprises the transport layer for an Internet protocol suite. HTTP is a higher layer protocol which utilizes TCP/IP and comprises the application layer. Use of TCP/IP does not imply that HTTP is also used. For example, other TCP/IP based protocols, such as FTP and Telnet may also be used. Thus, it is respectfully submitted that Coley neither discloses or suggests "a setup program which resides on the client computing system, the setup program configured to send post requests containing user information using hypertext transfer protocol (HTTP) over a network to an HTTP port," as recited in claim 17.

In addition, the licensing module of Coley does not act as a tunneling agent. The licensing module operates on a firewall, whereas a tunneling agent bypasses firewalls by transmitting data through an HTTP port. Coley does not mention the use of either HTTP or tunneling. Thus, it is respectfully submitted that Coley teaches a proxy agent operating via a firewall rather than "a tunneling agent which resides on a remote server system accessible via the network and having the HTTP port and a firewall, the tunneling agent configured to receive the post requests from the HTTP port," as recited in claim 17. In addition, it is respectfully submitted that Nabahi is insufficient to cure these deficiencies of Coley. Accordingly, Appellants respectfully request that the Board overturn the Examiner's rejection under 35 U.S.C. 103(a) of claim 17 and all claims depending directly or indirectly therefrom (claims 22, 24 and

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25).

Therefore, at least for these reasons and the reasons in the previously filed Appeal Brief, it is respectfully submitted that all of the presently pending claims are allowable.

Appellants respectfully request that the Board overturn the Examiner's rejection of these claims.

3. Conclusions

For the reasons set forth above, Appellants respectfully request that the Board reverse the final rejections of the claims by the Examiner under 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a) and indicate that claims 1-4, 6, 7, 9-13, 17, 22, 24, 25 and 39-41 are allowable.

Respectfully submitted,

Date: January 16, 2007

By: 

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CLAIMS APPENDIX

1. (Rejected) A method of managing an automated license installation on a client computing system, the method comprising the steps of:
 - retrieving license information of the client computing system from a license database located on a remote server;
 - receiving a selection of a configuration of the retrieved license information;
 - confirming the configuration of the retrieved license information on the client computing system; and
 - receiving one of a license file relating to the confirmed configuration of the retrieved license information and an error message.
2. (Rejected) The method according to claim 1, further comprising the step of:
 - requiring an entry of a valid PIN number.
3. (Rejected) The method according to claim 1, further comprising the step of:
 - requiring an affirmative permission of the client computer system before retrieval of license information from the license database.
4. (Rejected) The method according to claim 1, further comprising the step of:
 - determining whether a flexible license management utility software is installed on the client computing system, and installing the flexible license management utility software on the client computing system if the flexible license management utility software is determined as not being installed on the client computing system.
6. (Rejected) The method according to claim 1, further comprising the step of:
 - updating the license database based on the configuration of the retrieved license

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information.

7. (Rejected) The method according to claim 1, further comprising providing at least one license installation option on the client computing system;
wherein the at least one license installation option includes at least one of:
 - a full license installation;
 - a program group installation; and
 - a floating license installation.
9. (Rejected) The method according to claim 1, further comprising the step of:
determining an operating system of the client computing system.
10. (Rejected) The method according to claim 9, further comprising the step of:
configuring the operating system of the client computing system for the automated license installation by setting an environment variable of the operating system.
11. (Rejected) The method according to claim 1, further comprising the steps of:
 - determining whether a previously installed license file is valid; and
 - performing one of an updating operation and a replacement operation with respect to the previously installed license file.
12. (Rejected) The method according to claim 11, further comprising the step of:
querying the client computing system on whether one of the updating operation and the replacement operation is to be performed with respect to the previously installed license file.
13. (Rejected) The method according to claim 1, further comprising the step of:

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determining if a network connection exists to the client computing system.

17. (Rejected) A system for managing an automated license installation on a client computing system comprising:

a setup program which resides on the client computing system, the setup program configured to send post requests containing user information using hypertext transfer protocol (HTTP) over a network to an HTTP port;

a tunneling agent which resides on a remote server system accessible via the network and having the HTTP port and a firewall, the tunneling agent configured to receive the post requests from the HTTP port;

an automated license daemon program which resides on the remote server system, the automated license daemon configured to receive the user information from the tunneling agent; and

a first database which resides on the remote server system and on which is stored license information and a license file, the first database configured to receive a request from the automated license daemon program and return a reply, the reply including one of the license information, the license file, and an error message;

wherein the automated license daemon is further configured to send a reply HTTP message based on the reply to the setup program over the network using the HTTP port.

22. (Rejected) The system according to claim 17, wherein the setup program is further configured to install the license file on the client computing systems when the setup program receives the license file.

24. (Rejected) The system according to claim 17, further comprising:

a second database on which resides a master copy of license information and license file from which an extract is made and becomes the source for the first database.

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25. (Rejected) The system according to claim 24, wherein the information on the second database and the first database are updated independently and then synchronized.

39. (Rejected) The method of claim 1, further comprising sending a message requesting license information

40. (Rejected) The method of claim 39, wherein the message includes at least one of a host ID, license number, and request code.

41. (Rejected) The method of claim 1, wherein the retrieved license information includes at least one of available licensed products, host ID information, port number information, number of licenses available and number of licenses currently installed.

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EVIDENCE APPENDIX

No evidence has been entered or relied upon in the present appeal.

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RELATED PROCEEDING APPENDIX

No decisions have been rendered regarding the present appeal or any proceedings
related thereto.